

September 30, 2005

Mary L. Cottrell, Secretary
Massachusetts Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: *Investigation re: Discount Program Penetration Rate*, D.T.E. 01-106-B; *NSTAR Electric*, D.T.E. 05-55; and *Massachusetts Electric Company*, D.T.E. 05-56.

Dear Secretary Cottrell:

On August 30, 2005, the Department of Telecommunications and Energy (the "Department") issued a Notice of Filing and Public Hearing ("Notice") on the tariffs proposed separately by NSTAR Electric, in docket D.T.E. 05-55, and Massachusetts Electric Company and Nantucket Electric Company ("MECo"), in docket D.T.E. 05-56. The proposed tariffs would allow the Companies to recover costs related to the low-income discount rate computer matching program the Department established on August 8, 2003 to increase the participation of eligible low-income customers in discounted electric and gas service. The Department suspended the proposed tariffs for investigation until November 1, 2005, consolidated the investigation of these tariffs, D.T.E. 05-55 and D.T.E. 05-56, with its investigation of electric and gas company compliance with the directives contained in D.T.E. 01-106-B, and held a technical session to discuss the various elements of the proposed cost recovery tariffs. On September 27, 2005, the hearing officer issued a Memorandum detailing an alternative cost recovery mechanism. Pursuant to the Memorandum, the Attorney General submits this letter as his comments on the Department's proposed alternative cost recovery mechanism.

The Department's proposed alternative cost recovery mechanism requires all companies to file tariffs that would (1) calculate an adjustment factor on a prospective basis¹; (2) accrue interest on under- or over-recoveries at the prime rate; (3) establish a baseline amount of low-income discount collected through base rates for twelve months ending June 30, 2005; and (4) on or after July 1, 2005, recover any amount of low-income discount in excess of the baseline amount through the Residential Assistance Adjustment Factor ("RAAF"). Memorandum at 2-3. The companies would not be required to refund to ratepayers any amount below the baseline if

¹ The Department's proposed calculation is similar to NSTAR Electric's proposed tariff filed in D.T.E. 05-55.

their total low-income discount in a given year is below the baseline amount. *Id.* at 3. These tariffs will become effective November 1, 2005 and the reconciliation will occur for electric companies concurrent with their annual transition charge reconciliation filings and, for gas companies concurrent with peak/winter LDAF filings. The companies will only collect this change in the level of discount costs during the interim period from their last base rate cases until their next base rate cases. D.T.E. 01-106-B, p. 9.

The Attorney General fully supports the expansion of the enrollment of eligible customers onto the low-income discount rate and the Department is right to require companies to perform this function immediately. Two of the terms in the proposed alternative cost recovery mechanism, however, are not in the best interest of the customers: (1) the method of establishing the baseline and (2) not requiring the companies to refund to ratepayers amounts below the baseline.

The Department should set the baseline amount of low-income recovery consistent with the subsidized amount recovered from the non-low-income customers during the most recent twelve months. The Department's proposal for the cost recovery mechanism provides:

Companies shall establish a baseline amount of low-income discount that is collected through base rates for the twelve months ending June 30, 2005. The baseline amount shall be calculated as the difference between the base rate revenues that would have been collected from customers receiving the low-income discount during the year ending June 30, 2005, had no low-income discount existed and the actual base rate revenues collected from low-income customers for the twelve months ending June 30, 2005.

Memorandum at 2. This method, however, fails to recognize that the "cost" of the low-income discount is actually recovered from non-low-income customers, not the utility's shareholders. The companies' non-low-income customers subsidized the discount for the low-income customers, and the companies recovered the subsidy from the other customers through a higher base rate established for those other customers in the last base rate case.

The harm to shareholders depends on the cost recovery from the non-low-income customers through their existing rates and the "cost" of switching existing residential customers to low-income rates. The Department should determine if the new efforts to recognize low-income customers (i.e. the computer matching program) actually harm shareholders by comparing the total amount of subsidy currently built into the non-low-income customers' rates to the total amount of low-income discount that will result after the new low-income customers are added from the new program. The cost recovery mechanism should have as its baseline the low-income subsidy amount currently included in the other customers' base rates from each company's last base rate case, increased for the change in billing determinants from the test year until the twelve months ended June 30, 2005. If the utilities subtract this cost recovery amount from the total low-income discount revenues they will receive after the newly recognized

customers have been added, the Department will be able to accurately measure whether each utility's shareholders are currently being harmed, or are actually profiting from the numbers of low-income customers.

An example is the level of subsidization that Fitchburg Gas and Electric Company's ("Fitchburg") electric division collected during 2004 as a result of its last base rate case in D.T.E. 02-24/25. According to Fitchburg, it built a discount of \$258,487 into rates in that rate case. *See* D.T.E. 01-106-B, Fitchburg's response to DTE-1-1. The Sales to Ultimate Customers during 2001, the test year in that case, were 459,698 MWH. *See* 2001 FERC Form 1, p. 301, line 10. The Sales to Ultimate Customers during 2004, the most recent period available, were 549,168 MWH. *See* 2004 FERC Form 1, p. 301, line 10. The change in MWH sales, therefore, is 19.5 percent. $[(549,168 / 459,698) - 1]$. Using this change in the sales billed to customers, Fitchburg recovered \$308,796 in subsidies from the other customers during 2004. $[\$258,487 \times (1 + 0.195)]$. The Department should use this method, employing the most recent MWH sales available for each Company to determine the updated amount of low income discount being collected from customers for its comparison to the low income discount after the addition of the newly recognized customers.

Finally, if the Department allows the companies to collect costs associated with low-income discounts dollar for dollar, then it should also require the companies to refund any over recovery of costs dollar for dollar, regardless of whether the refund would be below the baseline amount. Any cost recovery mechanism must be revenue neutral and the companies should not be allowed to profit from any proposed cost recovery mechanism at the expense of their customers who subsidize the low-income discount.

The Department should change its proposed alternative cost recovery mechanism to include these recommendations.

Sincerely,

Colleen McConnell
Assistant Attorney General

cc: Jeanne Voveris, Hearing Officer
Service List